

Remarks

Claims 1-43, 52 and 53 have been amended. Claims 44-51 have been withdrawn as directed to a non-elected invention. The amendment to claim 1 finds exemplary support in Applicants' specification at page 16, lines 9-14 and Examples 1-15. Additional amendments to the claims were made to better define Applicants' invention and to place the claims into a format that is more reflective of standard U.S. patent prosecution practice. As such, no new matter has been introduced by any of the amendments.

1. Rejection under 35 U.S.C. § 102(b)

Claims 1-43 and 52-53 are rejected as being anticipated by WO 97/17129 to Fournier *et al.* ("Fournier"). According to the Examiner, Fournier teaches a polymeric membrane produced by cross-linking a poly(vinyl alcohol) with a polyfunctional cross-linking agent (glutaraldehyde).

In light of the amendment to claim 1, Applicants respectfully disagree with the Examiner's use of Fournier as anticipatory prior art. Fournier is directed to membranes that are to be used inside a mammalian body. "[I]t is an object of the present invention to provide a biocompatible, immunoprotective membrane which is an extremely hydrophilic membrane which allows free transport of small molecules..." (page 3, lines 6-9, emphasis added). Fournier states that "[f]or use in the present invention, the water content of the [described] hydrogels should be from about 60 to about 98% (page 10, lines 3-4). Further, Fournier states that the concentration of water in the hydrogel is a function of cross-linking and that the water content and the degree of cross-linking are inversely proportional (see, e.g., page 10, lines 4-8). Fournier acknowledges that to be suitable for their intended purpose, the described hydrogels should have a cross-linking concentration of from "nearly 0 to about 0.8%", and that since the preferred water content of the hydrogels should be maintained at from about 85% to about 97%, the cross-linking concentration should actually be "about 0.1%" (see page 12, lines 14-20). In support of this teaching, the only example of a exemplary hydrogel in the Fournier specification shows that the concentration of the crosslinking agent (glutaraldehyde) is 0.083 wt. %.

In contrast, Applicants' claimed polymeric membrane are directed more toward use in electrophoretic systems and therefore have quite different crosslinking requirements. As amended, claim 1 recites the presence of a polyfunctional crosslinking agent in the polymeric membrane in a weight range of between about 1% and about 1,500% w/w. Fournier does not teach or suggest a hydrogel with such a high degree of crosslinking. Therefore Fournier does not anticipate or render obvious Applicants' claimed invention. As such, Applicants request that this rejection be withdrawn.

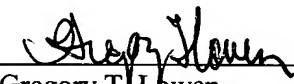
2. **Conclusion**

The foregoing amendments and remarks are being made to place the application in a condition for allowance. Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner find that an interview would be helpful to further prosecution of this application, he is invited to telephone the undersigned at his convenience.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. 1.136(a)(3).

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